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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/682,239	10/09/2003	Michael T. Cole	13256US04	9995

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EXAMINER

AMIRI, NAHID

ART UNIT PAPER NUMBER

3635

DATE MAILED: 06/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/682,239	COLE ET AL.	
	Examiner	Art Unit	
	Nahid Amiri	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-24 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>09 October 2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, **the reciprocal opening of the upwardly extending legs of the insert** must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-2, 4-24 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 16 of U.S. Patent No. US Patent No. 6,612,081 B2. Although the conflicting claims are not identical, they are not patentably distinct from each other because the conflicting claims are not identical, they are not patentably distinct from each other because the claims include similar language as such, **claims 1-2, 4-5** of the applicant contains the same subject matter as claim 16 of the patent, an access door that is slidably movable (patent) is inherently movable (application), **claims 6-8** corresponds to claim 17 of the patent, except the having planar first seal and annular gasket second seal and it would have been an obvious matter of design choice to have planar first seal and annular gasket second seal in order to cover an in-floor receptacle fitting and prevent any water penetration into the fitting, **claim 9** correspond to claims 6 and 11 of the patent, **claim 10** correspond to claim 6 of the patent, **claim 11** corresponds to claim 7 of the patent, **claims 12-13** corresponds to claim 12 of the patent, **claims 14-15** corresponds to claims 6 and 11 of the patent and an access door that is slidably movable (patent) is inherently movable (application), **claim 16** corresponds to claim 7 of the patent, **claim 17-19** correspond to claim 11, **claims 20-24** corresponds to claim 11 of the patent, except the trim flange is annular and cover plate is circular and it would have been an obvious matter of design choice to have annular trim flange and circular cover in order to cover an in-floor receptacle fitting and prevent any water penetration into the fitting and an access door that is slidably movable (patent) is inherently movable (application).

Allowable Subject Matter

Claim 3 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3635

US Patent No. 6,545,215 B2 Young et al.

US Patent No. 4,458,460 Kohaut

US Patent No. 4,541,538 Swetnam

US Patent No. 4,343,411 Chesnut et al.

US Patent No. 4,342,493 Grenell

US Patent No. 4,289,921 Gartner et al.

US Patent No. 4,228,317 Cziment

US Patent No. 5,160,808 Kling et al.

US Patent No. 4,640,564 Hill

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nahid Amiri whose telephone number is (703) 305-4241 and Fax number is 703-305-7687. The examiner can normally be reached on Monday-Friday from 8:00-5:30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Carl Friedman can be reached at (703) 308-0839.

na *na*

June 9, 2004



Carl D. Friedman
Supervisory Patent Examiner
Group 3600